



General Assembly

February Session, 2004

Amendment

LCO No. 4727

SB0039104727SD0

Offered by:

SEN. DEFRONZO, 6th Dist.

To: Subst. Senate Bill No. 391

File No. 317

Cal. No. 249

***"AN ACT CONCERNING THE RETENTION OF SERVICE
CONTRACT WORKERS."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2004*) (a) As used in this section:

4 (1) "Awarding authority" means any person, including a contractor
5 or subcontractor, who awards or otherwise enters into a contract to
6 perform any of the following services for the state: Janitorial, building
7 maintenance, security, food and beverage, but does not include
8 services performed by any restaurant owned and operated by one or
9 more individuals or an organization other than a publicly-traded
10 corporation.

11 (2) "Contractor" means any person who enters into a service
12 contract, valued at one hundred thousand dollars per year or more,
13 with the awarding authority and any subcontractors to such service
14 contract at any tier.

15 (3) "Employee" means any person engaged to perform any of the
16 following services: Janitorial, building maintenance, security, food and
17 beverage, but does not include services performed by any restaurant
18 owned and operated by one or more individuals or an organization
19 other than a publicly-traded corporation, but does not include a person
20 who is (A) a managerial, supervisory or confidential employee,
21 including any person who would be so defined under the National
22 Labor Relations Act, (B) employed for less than ten hours per week, or
23 (C) employed by a terminated contractor for less than ninety days
24 immediately preceding the termination date of the service contract.

25 (4) "Person" means any individual, proprietorship, partnership, joint
26 venture, corporation, limited liability company, trust association, the
27 state or other entity that may employ or enter into other contracts.

28 (5) "Service contract" means a contract let to a contractor by the
29 awarding authority for the furnishing of any service listed in
30 subdivision (3) of this subsection.

31 (6) "Successor service contract" means a service contract with the
32 awarding authority under which substantially the same services to be
33 performed have previously been rendered to the awarding authority
34 as part of the same program or at the same facility under another
35 service contract or have previously been rendered by the awarding
36 authority's own employees.

37 (7) "Terminated contractor" means a contractor whose service
38 contract expires without renewal or whose contract is terminated, and
39 includes the awarding authority itself when work previously rendered
40 by the awarding authority's own employees is the subject of a
41 successor service contract.

42 (8) "Successor contractor" means a contractor awarded a service
43 contract to provide substantially the same services previously
44 rendered to the awarding authority as part of the same program or at
45 the same facility under another service contract.

46 (b) Each awarding authority that enters into a service contract to be
47 performed within this state shall be subject to the following
48 obligations:

49 (1) The awarding authority shall give advance notice to a contractor
50 and the exclusive bargaining representative of any of the contractor's
51 employees, of the termination of such service contract and shall
52 provide the contractor and the exclusive bargaining representative
53 with the name, telephone number and address of the successor
54 contractor or contractors, if known. The terminated contractor shall,
55 not later than three days after receipt of such notice, provide the
56 successor contractor with the name, date of hire and employment
57 occupation classification of each person employed by the terminated
58 contractor at the site or sites covered by the service contract as of the
59 date the terminated contractor receives the notice of termination.

60 (2) On the date the service contract terminates, the terminated
61 contractor shall provide the successor contractor with updated
62 information concerning the name, date of hire and employment
63 occupation classification of each person employed by the terminated
64 contractor at the site or sites covered by the service contract, to ensure
65 that such information is current up to the actual date of service
66 contract termination.

67 (3) If the awarding authority fails to notify the terminated contractor
68 of the identity of the successor contractor, as required by subdivision
69 (1) of this subsection, the terminated contractor shall provide the
70 information described in subdivision (2) of this subsection to the
71 awarding authority not later than three days after receiving notice that
72 the service contract will be terminated. The awarding authority shall
73 be responsible for providing such information to the successor
74 contractor as soon as the successor contractor has been selected.

75 (4) (A) A successor contractor shall retain, for at least sixty days
76 from the date of first performance of services under the successor
77 service contract, all of the employees who were employed by the

78 terminated contractor at the site or sites covered by the service
79 contract.

80 (B) The provisions of this section shall not apply: (i) If the
81 Commissioner of Administrative Services or any awarding authority
82 has made a finding that the current contractor has been grossly
83 negligent in performing any duty under such contract, or (ii) to any
84 portion of a set-aside contract under the provisions of title 10 or 17b of
85 the general statutes, except that such exclusion shall not apply if a
86 written agreement prohibits termination of employees except for just
87 cause.

88 (C) In the event the successor service contract is terminated prior to
89 the expiration of such sixty-day period, then any contractor awarded a
90 subsequent successor service contract shall be bound by the
91 requirements set forth in this subsection to retain, for a new sixty-day
92 period commencing with the onset of the subsequent successor service
93 contract, all of the employees who were previously employed by any
94 one or more of the terminated contractors at the site or sites covered by
95 the service contract.

96 (D) At least five days prior to the termination of a service contract,
97 or at least fifteen days prior to the commencement of the first
98 performance of service under a successor service contract, whichever is
99 later, the successor contractor shall hand deliver a written offer of
100 employment to each such employee in such employee's native
101 language or any other language in which such employee is fluent and
102 information concerning such employee's rights under the provisions of
103 this section. Each offer of employment shall state the time within
104 which such employee must accept such offer but in no case shall that
105 time be less than ten days from the date of the offer of employment.

106 (5) If at any time a successor contractor determines that fewer
107 employees are required to perform the successor service contract than
108 were required by the terminated contractor, the successor contractor
109 shall be required to retain such employees by seniority within each job

110 classification, based upon the employees' total length of service at the
111 affected site or sites.

112 (6) During such sixty-day period, the successor contractor shall
113 maintain a preferential hiring list of employees eligible for retention
114 pursuant to subdivision (4) of this subsection, who were not initially
115 retained by the successor contractor, from which the successor
116 contractor shall hire additional employees, if necessary.

117 (7) Except as provided under subdivision (6) of this subsection,
118 during such sixty-day period, the successor contractor shall not
119 discharge without just cause an employee retained pursuant to this
120 section. For purposes of this subdivision, "just cause" shall be
121 determined solely by the performance or conduct of the particular
122 employee. At the end of such sixty-day period, the successor
123 contractor shall prepare a written performance evaluation for each
124 employee retained pursuant to this section, and, if such employee's
125 performance is satisfactory, offer such employee continued
126 employment as may be consistent with titles 10 and 17b of the general
127 statutes.

128 (c) Any awarding authority or contractor who knowingly violates
129 the provisions of this section shall pay a penalty not to exceed one
130 hundred dollars per employee for each day the violation continues.

131 (d) The Labor Commissioner shall have the responsibility for the
132 enforcement of the provisions of this section and in connection with
133 such responsibility shall:

134 (1) Cause a notice containing the provisions of this section to be sent
135 to all persons currently engaged in performing any of the following
136 services within the state and to all persons who shall in the future
137 indicate on such application an intention to engage in such businesses,
138 including any subcontracts for such services: Janitorial, building
139 maintenance, security and food and beverage.

140 (2) Maintain a current list of all business privilege license holders for

141 performing services listed in subdivision (1) of this subsection.

142 (3) Investigate all complaints against any contractor or awarding
143 authority and in connection with such complaint or with respect to any
144 investigation shall have full power and authority to subpoena any
145 witness, books, records or other data of any person for the purposes of
146 obtaining information pertinent to such investigation. The Labor
147 Commissioner shall make a finding, in writing, with respect to each
148 complaint filed, and shall send a copy of the complaint to the
149 complainant and the contractor and shall maintain the original on file.

150 (4) Refer all complaints determined to have merit to the appropriate
151 state department for revocation of the offending contractor's business
152 privilege license.

153 (5) Monitor the operations of contractors and awarding authorities
154 to ensure compliance with the provisions of this section."

This act shall take effect as follows:	
Section 1	July 1, 2004